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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/627,841	07/28/2000	Huiling Zhu	MEW1855/055	1077

7590 08/29/2002  
Owen J. Meegan  
65 Dearborn Street  
Salem, MA 01970

EXAMINER

PATEL, ASHOK

ART UNIT	PAPER NUMBER
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2879

DATE MAILED: 08/29/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/627,841

Applicant(s)

ZHU ET AL.

Examiner

Ashok Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 3-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

### Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

1. The Examiner acknowledged that claim 2 has been cancelled by a preliminary amendment. The co-pending U.S. Patent application serial number 09/074,633, cited at page 7, line 2 appears to be incorrect.

2. Claims 6 and 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claims 6 and 7: the term "and/or" renders the claims vague since it remains unclear as to whether the claims refer to "and" or "or".

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the

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differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1 and 9-13 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Furmidge et al (U.S.P. 3,867,665) or Ohyama et al (U.S.P. 4,745,335) or Ohyama (U.S.P. 4,769,576), each applied individually.

Each of these prior art references cites a metal halide lamp as claimed by applicant including MgI<sub>2</sub> or MgBr<sub>2</sub> as a fill material besides mercury and rare gas fill.

Although none of these prior art references disclose or teach an (outer) envelope, the envelope is inherently provided for optimizing: additional protection, temperature and pressure etc.

Alternatively providing an (outer) envelope would have been obvious to one of ordinary skill in the art for optimizing: additional protection, temperature and pressure etc.

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6. Claims 1, 3-9 and 11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Caruso (U.S.P. 5,698,948).

Each of these prior art references cites a metal halide lamp as claimed by applicant including  $MgI_2$  or  $MgBr_2$  as a fill material besides mercury and rare gas fill.

Although none of these prior art references discloses or teach an (outer) envelope, the envelope is inherently provided for optimizing: additional protection, temperature and pressure etc.

Alternatively providing an (outer) envelope would have been obvious to one of ordinary skill in the art for optimizing: additional protection, temperature and pressure etc.

Caruso further discloses the amp including: Na, at least one lanthanide element (col. 1, lines 30-32) as claimed by applicant. The amount of fill material is such that it satisfies applicant's claimed molar weight range.

The Examiner shifts burden to applicant to come forward and prove how different claimed molar weight ranges (in claims 3-7) are not disclosed by Caruso. Mere arguments would not overcome the rejection.

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7. Claims 1, 9 and 11 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Ohyama et al (U.S.P. 5,394,059).

Each of these prior art references cites a metal halide lamp as claimed by applicant including  $MgI_2$  or  $MgBr_2$  as a fill material besides mercury and rare gas fill.

Although none of these prior art references disclose or teach an (outer) envelope, the envelope is inherently provided for optimizing: additional protection, temperature and pressure etc.

Alternatively providing an (outer) envelope would have been obvious to one of ordinary skill in the art for optimizing: additional protection, temperature and pressure etc.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Furmidge et al (U.S.P. 3,867,665) or Ohyama et al (U.S.P. 4,745,335) or Ohyama (U.S.P. 4,769,576) or Caruso (U.S.P. 5,698,948) or Ohyama et al (U.S.P. 5,394,059), each applied individually.

None of these prior art references discloses the lamp envelope having pressure in a certain range as claimed by applicant. However, it would have been obvious to one of ordinary skill in the art to provide the outer envelope with a

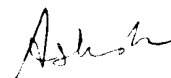
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suitable pressure for optimizing the operating characteristics of the lamp with respect to selection of discharge pressure, fill material, operating voltage etc.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ashok Patel whose telephone number is 703-305-4934. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nimesh Patel can be reached on 703-305-4794. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7382 for regular communications and 703-308-7382 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-4900.



Ashok Patel  
Primary Examiner  
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